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ARTICLE

Can the Erga Omnes Principle Revolutionize State Administrative Courts? A Challenge Through Lawrence M. Friedman's Legal System Theory

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Abstract

The principle of *erga omnes*, which signifies obligations binding on all parties, has traditionally been associated with international law and human rights. However, its application within state administrative courts remains an underexplored and provocative area of legal theory. This study delves into whether the *erga omnes* principle can be adapted to revolutionize Indonesia's State Administrative Court (PTUN) system, drawing on Lawrence M. Friedman's Legal System Theory as a framework. Friedman's theory, which emphasizes the interaction of legal rules, legal culture, and the legal environment, offers an insightful lens to analyze the broader implications of applying *erga omnes* in the domestic administrative context. The findings suggest that while the *erga omnes* principle could significantly strengthen the role of state administrative courts in ensuring broader societal justice, its implementation presents notable challenges. These challenges include the difficulty in aligning domestic legal systems with the universal and binding nature of *erga omnes*, the risk of overwhelming courts with cases that require systemic change, and the potential for conflicting interpretations of the principle's scope. Despite these challenges, the study proposes that strategically applying *erga omnes* could enhance legal coherence, public trust, and accountability in administrative decision-making. This research challenges conventional thinking by

proposing an audacious application of international legal principles to domestic administrative law. It provides fresh insights into how judicial reform could reshape the PTUN system, urging policymakers and legal scholars to rethink the boundaries of state administrative justice in Indonesia.

Keywords
Erga Omnes, State Administrative Courts, Legal System Theory, Judicial Reform, Indonesia Legal System

Introduction

The State Administrative Court (PTUN) is one of the courts in Indonesia which has been determined in Law No. 14 of 1970 concerning judicial power. PTUN itself has also been regulated in Law No. 5 of 1986 which was enacted on December 29, 1986, the law was then amended twice which resulted in Law No. 9/2004 and Law No. 51/2009.[1] In the PTUN, only decisions that have permanent legal force can be executed. In the PTUN itself, the execution of a decision is focused on the legal awareness of the defendant.[2] This indicates that the execution of a decision is very dependent on the defendant, but if the defendant does not immediately carry out the execution process for a decision that has permanent legal force, the defendant can be subject to administrative sanctions that are announced in the mass media. Furthermore, if we refer to the principles of the PTUN, it can be seen that there are three principles related to PTUN decisions (out of 8 PTUN principles), including (1) Decisions are *erga omnes*; (2) decisions must not be *ultra petita*; and (3) the principle of suspension of implementation of decisions.[3] But in reality in the field only the

[1] Herlambang, Pratama Herry. *Pengantar Hukum Acara Peradilan Tata Usaha Negara*. Depok: Rajawali Pers. 2024. pp 1-2.

[2] Herlambang, Pratama Herry; Sulistiyono, Tri. Peran Pengadilan dalam Proses Eksekusi Putusan yang Berkekuatan Hukum Tetap di Pengadilan Tata Usaha Negara Semarang. *Indonesian State Law Review* (ISLRev), 2020, 3.1: 39-45.

[3] Dani, Umar. *Konsep Dasar dan Prinsip-Prinsip Peradilan Tata Usaha Negara*. Jakarta: Rajawali Pers, 2022. p. 120. *See also* Abra, Emy Hajar, and Rofi Wahanisa. "The Constitutional Court Ultra Petita as a Protection Form of Economic Rights in Pancasila Justice." *Journal of Indonesian Legal Studies* 5, no. 1 (2020): 187; Hapsari, Elisabeth

principle that the decision may not be ultra petita and the principle of suspension of the implementation of the decision can apply. This can happen because the object of the dispute from the PTUN is stated in Article 1 paragraph (10) of Law No. 5/1986 in conjunction with Law No. 9/2004 in conjunction with Law No. 51/2009, which says: "*State administrative disputes are disputes that arise in the field of state administration between individuals or civil legal entities with State Administrative Agencies or Officials, both at the central and regional levels, as a result of the issuance of a State Administrative Decision, including personnel disputes based on applicable laws and regulations*" whereas the KTUN as referred to in the paragraph is described in Article 1 paragraph (9) of Law No. 5/1986 which reads: "*Keputusan Tata Usaha Negara adalah suatu penetapan tertulis yang dikeluarkan oleh badan atau Pejabat TUN yang berisi tindakan hukum tata usaha negara yang berdasarkan peraturan perundang-undangan yang berlaku, yang bersifat konkret,* ***individual****, dan final, yang menimbulkan akibat hukum bagi seseorang atau badan hukum perdata*" or in English reads: "*A State Administrative Decision is a written determination issued by a State Administrative Agency or Official which contains state administrative legal actions based on applicable laws and regulations, which are concrete,* ***individual*** *and final, which have legal consequences for a person or civil legal entity.*"[4]

Based on the article, it can be seen that the object of the PTUN dispute is the existence of a KTUN which is concrete, individual and final, but the KTUN causes a dispute between an individual and a TUN official or between an agency and a TUN official. With the phrase "individual", the principle of an *erga omnes* decision certainly cannot apply. The principle of an *erga omnes* decision itself means that the decision rendered applies to all cases containing similarities that may occur in the future.[5] This means that the decision made

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Putri, Lapon Tukan Leonard, and Ayu Putriyanti. "Kewenangan Hakim Peradilan Tata USAha Negara Menggunakan Asas Ultra Petita Berdasarkan Putusan Mahkamah Agung No. 5k/tun/1992 (Studi Kasus Putusan No. 32/g/2012/ptun. smg)." *Diponegoro Law Journal* 6, no. 2 (2017): 1-18.

[4] A. Siti Soetami, *Hukum Acara Peradilan Tata Usaha Negara*, Bandung: PT. Refika Aditama, 2005.

[5] Bagir Manan, *Kekuasaan Kehakiman Republik Indonesia*. Bandung: Pusat Penerbitan Universitas LPPM – Universitas Islam Bandung. 1995. pp 28-29.

by the judge should not only be binding on the disputing parties, but in reality the principle of an *erga omnes* decision is sometimes interpreted in disputes where there is an eviction of community land and then only one of the residents sues the KTUN for the eviction and the decision is binding not only for the disputing parties but also for the community affected by it. However, if a similar case arises, the case must be sued again. This indicates that the decision made by the PTUN is not *erga omnes* because cases that arise in the future must be tried again.

This research has previously been conducted by several researchers, such as research conducted by Firdaus Arifin with the title "*Efektivitas Putusan Erga Omnes dalam Mengatasi Pelanggaran Hukum Tata Usaha Negara*" in 2024. The study discusses the effectiveness of the application of the *erga omnes* principle in PTUN decisions.[6], The difference with the research conducted by the author with the research is that the research conducted by the author uses Lawrence Meir Friedman's theory to examine whether the existing *erga omnes* principle has been truly implemented or only exists in theory. Furthermore, there is research conducted by Luh Putu Happy Ekasari entitled "*Kekuatan Putusan Pengadilan Tata Usaha Negara yang Berkekuatan Hukum Tetap Terhadap Pembatalan Sertifikat Hak Milik Atas Tanah Melalui Kewenangan Kepala Kantor Pertanahan*" in 2019, the study discussed the PTUN which can issue a decision on the cancellation of a certificate of ownership which in conclusion has legal force to be executed.[7] Although the study touches on the principle of *erga omnes* decisions in his research, the researcher does not discuss the principle further, therefore the study differs from the research conducted by the author because the author focuses on the principle of erga omnes PTUN decisions. And finally, the research conducted by Akbar Purnomo Fahrezi with the title "*Problematika penerapan asas erga omnes pada Sengketa Pemberhentian Perangkat Desa perspektif Siyasah Qadhaiyyah (Studi Putusan No. 190/G/2020/PTUN. SBY)*" in 2024. The study examines the problem of implementing the *erga omnes*

[6] Arifin, Firdaus. Efektivitas Putusan Erga Omnes dalam Mengatasi Pelanggaran Hukum Tata Usaha Negara. *UNES Law Review*, 2024, 6.4: 12583-12592.

[7] Ekasari, Luh Putu Happy. Kekuatan Putusan Pengadilan Tata Usaha Negara yang Berkekuatan Hukum Tetap Terhadap Pembatalan Sertifikat Hak Milik Atas Tanah Melalui Kewenangan Kepala Kantor Pertanahan. *Jurnal Hukum Prasada*, 2019, 6.1: 22-35.

principle at the PTUN using the *Siyasah Qadhaiyyah* perspective, which results in the PTUN continuously trying to implement the erga omnes principle by summoning all parties who are related to the case, but sometimes these parties only want to receive a summons without attending the trial, which ultimately creates obstacles to the implementation of the *erga omnes* principle.[8] According to the author, there is a misconception from the PTUN which assumes that the problem lies with the parties who do not want to attend when in fact the problem lies in the limited object of the PTUN dispute. The difference between the research and the research conducted by the author is that the research conducted by the author analyzes the application of the *erga omnes* principle using Lawrence Meir Friedman's theory and the author also uses a normative legal research method.

Based on this background, the author assumes that the application of the principle of *erga omnes* decisions is very urgent because if the decision issued by the PTUN is not *erga omnes*, then the cases that arise and originate from various regions, then the cases that are submitted and will be submitted in the future will result in the PTUN having many cases with similar problems but only with different regional origins. Therefore, the author will focus on two problems, namely (1) How is the formulation of Lawrence M. Friedman's legal system theory? and (2) How is the Erga Omnes Principle related to State Administrative Courts reviewed from the perspective of Lawrence M. Friedman's legal system theory?

The type of research used in this study is a type of doctrinal research (juridical-normative), the approach used in this study is a qualitative approach. Lexy J. Moleong, qualitative research has the following characteristics:[9] Qualitative research is based on a natural setting in the context of an entity. Scientific ontology is based on the existence of reality as a wholeness that cannot be understood if separated from its context; Formulating theories from

[8] Fahrezi, Akbar Purnomo. Problematika penerapan asas erga omnes pada sengketa pemberhentian perangkat desa perspektif Siyasah Qadhaiyyah (Studi Putusan No. 190/G/2020/PTUN. SBY). 2024. *PhD Thesis*. Universitas Islam Negeri Maulana Malik Ibrahim. Hal 64-65, 97-98.

[9] Moleong, Lexy J. *Metodologi Penelitian Kualitatif*. PT Remaja Rosdakarya Bandung. 2019.

the ground up, this means that the results of the large amount of data collected will be reduced to create a certain focus and it will be seen what theory emerges from the results of focusing on the data; Data is descriptive, which means that the content of the research will contain data citations to detail the presentation of the research.

Then the type of research approach here uses a literature study with three main approaches, namely the first is the statute approach, the statute approach is used for normative studies by analyzing laws and regulations related to state administrative law courts. Second, the conceptual approach, the conceptual approach is used to analyze the views and doctrines contained in legal theory and other concepts in the context of state administrative courts based on literature studies and secondary data. Then the analytical approach will be used to analyze legal materials originating from primary legal materials, secondary legal materials obtained during the research and the results of the analysis will be used as an analytical tool to examine the correlation between the principle of erga omnes in state administrative courts in the perspective of the legal system theory by Lawrence M. Friedman.

Lawrence Meir Friedman's Legal System Theory Formulation

A country must have a legal system to support good legal practice, a country without a legal system is like a human without a skeleton in it. The legal system is a system that functions to enforce law in a particular country. A good legal system is a legal system that has complete sub-systems in implementing its legal practice, the existing sub-systems must not collide with each other or dominate each other. Subekti stated that a system is an order or arrangement that is formed in a patterned manner and has a clear intention. An order or arrangement in a system must not overlap but must connect to each other to achieve the desired intention. So it can be drawn an idea that law as a system is a law that has an order and system that are correlated to achieve a certain intention.[10]

[10] R. Abdoel Djamali. *Pengantar Hukum Indonesia*, Jakarta: Raja Grafindo Persada, 1996. Hal 65.

In forming a certain legal system, it is certainly necessary to carry out a study of previously existing legal theories that function as a benchmark for creating a good legal system. One of the legal experts who provides ideas and theories regarding the legal system is Lawrence Meir Friedman. Friedman in Prasetyo stated that the legal system has several benefits, namely:[11]

a. The legal system as a means of social control functions to control society;
b. The legal system as a means to resolve disputes that arise in society;
c. A legal system that has the characteristics of law as a tool of social engineering which functions to make changes when the current law is no longer relevant or social engineering can also be carried out when a country wants to implement a new social pattern for its people (changes in the law for a specific purpose);
d. Law as social maintenance, which means that the legal system functions to maintain the law that is currently being implemented with the help of the role of law as social control for its implementation.[12]

The legal system according to Friedman consists of three major elements, namely Legal Substance which discusses normative regulations in the form of legal products, then the next element is Legal Structure, legal structure contains legal enforcement institutions or law enforcers who will implement and enforce legal substance, and the third element is Legal culture legal culture which is full of values and views of society towards law. The following will explain in more detail the three elements of the legal system according to Friedman:[13]

a) Legal Substance

As previously mentioned above, legal substance is basically one of the legal subsystems that contains both norms and regulations that are not only based on law in books but also law in action that is based on values that live in society (living law). Ideally, the law expected in this legal substance is a law that is transparent, democratic, responsive to input and suggestions

[11] Prasetyo T, Barkatullah AH. *Filsafat, teori dan ilmu hukum*. Jakarta: Rajawali Pers. 2012. P. 312.

[12] Suyatno. Kelemahan Teori Sistem Hukum Menurut Lawrence M. Friedman Dalam Hukum Indonesia. *IUS FACTI: Jurnal Berkala Fakultas Hukum Universitas Bung Karno*. 2023. 2.1 Juni. p.198.

[13] Lawrence M. Friedman, *American Law: An Introduction* (New York: W.W. Norton and Co., 1984). 1984. p. 6.

from the community and is not repressive, oppressive, orthodox and positivistic. Furthermore, Friedman in his book states that legal substance is as follows: "*By this is meant the actual rules, norms, and behaviour patterns of people inside the system. This is, first of all, "the law" in the popular sense of the term the fact that the speed limit is fifty-five miles an hour, that burglars can be sent to prison, that 'by law' a pickle maker has to list his ingredients on the label of the jar."*

b) Legal Structure

Legal structure is one of the elements or subsystems of a particular law that determines whether the law can be enforced or not. Legal structure discusses the structure of law enforcement that will enforce the legal substance containing norms and regulations. Friedman defines legal structure as follows: "*To begin with, the legal system has the structure of a legal system consist of elements of this kind: the number and size of courts, their jurisdiction... Structure also means how the legislature is organized...what procedures the police department follow, and so on. Structure, in way, is a kind of cross section of the legal system...a kind of still photograph, with freezes the action.*"[14]

In his idea, Friedman analogizes legal structure as an administrative procedure in a law enforcement agency in a particular country or jurisdiction. According to Friedman, legal stricture can be assessed by the number of courts, the appeal mechanism if there is an objection to a particular case, how the legislative body is regulated and leveled and many more which are basically related to the administrative procedures of law enforcement and legal institutions as law enforcers.

c) Legal Culture

Legal culture is an element or sub-system of law which is also key in the implementation of the legal system. Friedman stated that "*people's attitudes toward law and legal system? Their beliefs, values, idea expectations... The legal culture, in other words, is the climate of social though and social force which determines how law is used, avoided, or abused. With legal culture, the legal system is inert? a dead fish lying in a basket, not a living fish swimming in its sea".*

[14] *Ibid.*

Legal culture according to Freidman is broadly the legitimacy of society towards the laws that are formed and implemented, he also stated that the social aspect is an important aspect in the implementation of the law. Legal substance which is regulatory in nature is also determined by legal culture whether the law of the legal substance can be carried out or not.

Erga Omnes Principle Related to State Administrative Courts Reviewed from the Perspective of Lawrence M. Friedman's Legal System Theory

In this section, the authors will discuss the principle of *erga omnes* decisions, which in the context of this research means that "decisions are binding on all parties."[15] This principle indicates that the decision issued by the PTUN should be binding on everyone and not *inter partes* or only binding on the disputing parties. So far, the principle of an *erga omnes* decision has not been applied because the object of the dispute is only focused on the concrete, individual and final KTUN. This ultimately limits the authority of the PTUN to issue an *erga omnes* decisions.

According to researchers, the principle of erga omnes should be generally applicable or the decision can be public. This is because if the decision only applies to individuals, it will result in a long bureaucracy or administration with the same case, a person should be able to easily accept a clear, definite and fast decision with the same problem as the previous decision, but because of the individual nature of the decision, the decision becomes long and takes quite a long time. It is true that Indonesia tends to be classified as a civil law country which makes jurisprudence not the main material in deciding a case. However, it should be noted that Indonesia, as stated by Prof. Mahfud MD, is a balanced country where in certain situations the previous judge's decision has an important role in deciding cases so that cases can be resolved more quickly and

[15] Arbie, Ardiansyah. Sifat Final dan Mengikat Putusan Mahkamah Konstitusi Berdasarkan Asas Erga Omnes. *LEX PRIVATUM*, 2024, 13.1.

have guaranteed legal certainty, both from laws and regulations and from jurisprudence.

In addition to the above, in the context of the state administrative decision, the object of the PTUN dispute needs to be expanded regarding the nature of the KTUN which is individual as stated in Article 1 number 9 of Law No. 51 of 2009. To facilitate the discussion, the researcher will exemplify a simple case, for example A is the owner of a food stall whose food stall can be said to be a popular food stall, then B who is a police officer feels jealous because A's food stall is very popular which is in contrast to B's child whose food stall is very quiet, therefore B without reason puts up a "no parking" sign at A's food stall so that with this, A's food stall becomes quiet because of the difficulty of access to parking. With this, A sued this problem to the state administrative court, but at the examination stage, A's lawsuit was rejected because the "no parking" order was not specifically directed at A. With the above case examples, it can be concluded that there needs to be a further extension of the diction "individual" to "affected community" so that if it is changed as mentioned, A can sue B for his arbitrariness which has implications for losses.

Departing from the above case, it can be seen that here the KTUN seems to have very broad authority, but the plaintiff or the community has a weak standpoint and can be carried out at any time by arbitrariness by TUN officials to fulfill their own political desires, from which there is a legal imbalance and a balancing of interests between TUN officials and the government is needed. Because if not, an authoritarian and orthodox legal system will be created, which means that the holder of political power has a dominant position in exercising his power.[16]

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[16] Fasha, Moch Gandi Nur, and Retno Saraswati. "Politik Hukum Penghapusan Hak Gugat Administratif Pada Persetujuan Lingkungan dalam Sistem Hukum Nasional." *Jurnal Pembangunan Hukum Indonesia* 4.2 2022. *See also* Arifin, Ridwan, and Siti Hafsyah Idris. "In Dubio Pro Natura: in Doubt, should the Environment Be a Priority? A Discourse of Environmental Justice in Indonesia." *Jambe Law Journal* 6, no. 2 (2023): 143-184; Arsyiprameswari, Natasya, et al. "Environmental Law and Mining Law in the Framework of State Administration Law." *Unnes Law Journal* 7, no. 2 (2021): 347-370; Fauzi, Dzulfikar Ahmad. "Extrajudicial dispute resolution in handling environmental cases in Indonesia (Case study: River water pollution by PT Sugar Labinta in South Lampung)." *Indonesian Journal of Environmental Law and Sustainable Development* 3, no. 1 (2024): 97-124.

Next, the author will examine the principle of erga omnes decisions using Lawrence Meir Friedman's Legal System theory as explained above, the results of the analysis are:

a) Legal Substance

As explained above, legal substance includes rules, principles and norms that regulate the principle of *erga omnes*. The results of the research conducted by the author are that there are no norms that explicitly regulate the principle of *erga omnes* decisions. What exists is an article that regulates that the court has the authority to issue a decision which determines the obligation for the TUN agency or official to do something regarding the KTUN issued by the person concerned, such as revoking the KTUN, revoking and issuing a new KTUN and can also be given the obligation to provide compensation. This indicates that the State Administrative Procedure Law requires a new norm that clearly regulates the application of the principle of *erga omnes* decisions as referred to in this study. This can be done by making changes to the PTUN Law or by making a Supreme Court Regulation (PERMA) to provide a basis or legal basis for the application of the *erga omnes* principle. Furthermore, to facilitate the application of the principle of *erga omnes* decisions, it can also be done by expanding the scope of the disputed object than the PTUN. The object of the PTUN dispute is currently limited to KTUN which is concrete, individual and final, causing the *erga omnes* principle to be slightly limited. In the disputed object as explained above, it is regulated that it must be concrete, individual and final, which is contrary to one of the principles of the PTUN which is clearly related to the *erga omnes* decision. This difference ultimately creates a discrepancy and legal uncertainty for the community, on the one hand the PTUN states that the decision issued is *erga omnes* but on the other hand PTUN states that only KTUN which is concrete, individual and final can be sued to the PTUN. This difference will later, if not immediately resolved, result in the PTUN not having any *erga omnes* elements at all, so that the renewal of the Administrative Procedure Law is also needed to determine whether in the future the PTUN will have the principle of an *erga omnes* decision or only be binding on the disputing parties. In addition, with the explicit

regulation regarding the principle of *erga omnes* decisions, it will create legal certainty for the community if a case arises in the future.

b) Legal Structure

Legal structure is a part that includes institutions that implement the law, which in this context are the PTUN, TUN officials or bodies and institutions that support the running of the PTUN. In this context, the PTUN functions to ensure that decisions made by officials or State Administrative bodies do not violate the law either in terms of procedure (decision-making process) or in terms of substance. Therefore, the PTUN provides legal protection for individuals or bodies who feel disadvantaged by a KTUN. However, it is very unfortunate because the nature of the PTUN decision is currently only limited to individuals or bodies who sue or in this case it can be said to be for the disputing parties only. In addition, because there are no regulations governing the principle of *erga omnes* decisions, the PTUN has no authority to issue *erga omnes* decisions. This can also be obtained from the PTUN's authority when giving obligations to TUN bodies or officials who only pay attention to the interests of the disputing parties without looking at the conditions and interests of the wider community. In this case, Indonesia can emulate the Netherlands which has provided the *Raad Van State* (State Council) which plays a role in ensuring that the decisions made by judges can be applied widely to society. This system is also supported by the existence of a court that tries large administrative cases.

Then there is also Germany which has *Verwaltungsgericht* (administrative court) whose court decisions can be binding on all parties, especially cases involving public policy. This allows for good integration between the courts and good administration. So from the two countries it can be concluded that Indonesia needs a reform of the PTUN structure in several aspects such as expanding the authority of the PTUN in this case it can also be said in the part of the PTUN dispute object as explained in the legal substance section. Furthermore, the PTUN must also be given the authority to issue decisions that apply to the public, especially in cases that are public in nature (there are elements of society in them, including parties and the impact of the case and its decision) such as environmental

permit cases, spatial planning policies or other cases that are public in nature, involve the public in them and have a broad impact on society.

c) Legal Culture

Finally, legal culture includes how the attitude, habits and understanding of society (including law enforcers) towards the law. In the context of the PTUN in this study, what can be discussed is related to the behavior and habits of judges and how society views the PTUN. First, from the judge's side, until now PTUN judges have always tried individual cases in accordance with their authority as stated in the PTUN Law, this has finally made judges accustomed to making decisions that are binding on the disputing parties only, while in reality an *erga omnes* decision is needed so that there is legal certainty in the PTUN related to one of its principles, namely an *erga omnes* decision. So from this it can be concluded that PTUN judges also need to increase the capacity and capabilities of a judge to make it easier in the future when they will make an *erga omnes* decision, this is needed because an *erga omnes* decision is very crucial, it can be said that because a decision that binds all parties also means that if the decision is not in accordance with what is needed by society at large, then the decision will be considered a bad decision nationally. Furthermore, when viewed from the perspective of understanding and awareness of the people in Indonesia itself, it is found that the public does not understand the impact of the principle of *erga omnes* decisions referred to in this study, the public still assumes that erga omnes decisions or not applying the principle will not have a major impact.

In fact, if studied theoretically, it will be found that the principle of *erga omnes* decisions will have a major impact on the public in the sense that the decision will make it easier for them when they encounter similar cases or matters in the future. In addition, with the application of the principle of *erga omnes* decisions, the public no longer needs to file a lawsuit with the PTUN every time they find a similar case. So it is necessary to have a legal campaign and also education for the public regarding the impact of the *erga omnes* decision.

After reviewing the application of the *erga omnes* principle based on Lawrence M. Friedman's Legal System theory, the author also reviews several

negative aspects of the application of the erga omnes decision principle. These negative aspects include: (1) differences in regulations in each region, with these differences, if the PTUN applies the *erga omnes* decision principle, it will result in legal instability due to different regulations in each region; (2) the impact of an uncertain decision, an *erga omnes* decision will cause legal uncertainty, resulting in an uneven impact on society, for example, if a mine is closed by a PTUN decision, the community who feels disadvantaged by the mining will be happy about the decision from the PTUN, while on the contrary, other regions that support mining activities will be disadvantaged; (3) the trial process becomes more complex, with the *erga omnes* decision principle, the trial at the PTUN will certainly require a deeper process than the current process in the PTUN, in addition, the trial process will also take much longer than the current trial process; (4) potential for inconsistent decisions, PTUN decisions will be inconsistent because the judges who issue the decisions are always different, in this context if the decision issued by PTUN includes an *erga omnes* element then with different approaches by various judges it will result in different decisions each time; and (5) the difficulty of creating criteria to determine which cases will be included in cases that can be subject to an *erga omnes* decision and which cases can only be subject to a regular decision, in the absence of clear criteria it will be difficult for judges to make/issue a decision on a case.

Conclusion

The conclusion that can be drawn from this study is that PTUN is a court that has a dispute object in the form of KTUN which focuses on individuals which in practice has an impact on the existence of arbitrariness in society, whereas the principle of erga omnes or "binding for all parties" contains the meaning that the decision is binding on all parties with the same case, in the end the principle of *erga omnes* which is not implemented gives rise to arbitrariness of TUN officials as described in the discussion chapter above which has an impact on the gap between the community affected by KTUN, here it is necessary to hold an extension or expansion of the meaning of the information contained in the object of KTUN which only focuses on "individuals". On the other hand, it is necessary to hold a jurisprudence system for the legal system which

in fact is not yet *erga omnes*, if the previous judge's decision is not used in deciding the same case, there will be an extension of bureaucracy which is unfair to the community and of course will cost a lot of money and not apply the principle of fast, simple and low-cost justice. If correlated with Lawrence Meir Friedman's legal system theory, then in terms of legal substance, it is necessary to add new legal norms to the PTUN Law or use PERMA temporarily so that it can provide a legal basis for the PTUN to issue a decision that is *erga omnes* in nature, then if examined using the legal structure, the PTUN also needs to reform the authority of the PTUN so that it can issue a decision that is *erga omnes* in nature and finally from the legal culture, it can be concluded that education is needed for both judges who are accustomed to individual cases and also for the community who do not yet understand the impact of an *erga omnes* decision.

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"Law is the enterprise of subjecting human conduct to the governance of rules."

Lon L. Fuller — American Legal Scholar

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